

EXHIBIT 6

Volume:
 Pages: 1-22
 Exhibits:

COMMONWEALTH OF MASSACHUSETTS
 Hampden, ss. Superior Court Department
 OF THE TRIAL COURT

* * * * *

COMMONWEALTH OF MASSACHUSETTS, *

v. * Docket No.2012-83

ROLANDO PENATE, *
 Defendant *

* * * * *

JURY TRIAL HELD BEFORE
 THE HONORABLE TINA PAGE

APPEARANCES:

For the Commonwealth:
 Hampden County District Attorney's Office
 50 State Street
 Springfield, Massachusetts 01103
 By: Eduardo Velazquez, Assistant District Attorney

For the Defendant Penate
 Luke Ryan, Esquire
 Committee for Public Counsel Services
 Northampton, Massachusetts 01060
 By: Luke Ryan, Esquire

Springfield, Massachusetts
 Courtroom 6
 December 13, 2013

Patricia A. Flaherty
 Official Court Reporter

1 I N D E X

2 PAGE:

3	Jury Arrives...	3
4	Jury Dismissed to deliberate...	3
5	Two Notes Received from the Jury...	4
6	Note Received from the Jury...	6
7	Re-instruction of Webster Charge...	9
8	Note Received from the Jury...	13
9	The Verdicts...	17

10

11

12

EXHIBITS:

13

Exhibit N for ID -- Note from Jury... Page 4

14

Exhibit O for ID -- Note From Jury... Page 4

15

Exhibit P for ID -- Note to the Jury... Page 6

16

Exhibit R for ID -- Note From Jury... Page 13

17

18

19

20

21

22

23

24

25

1 (Court in session
December 13, 2013, 9:15 a.m.
2 Honorable Tina Page)

3

4 (The following proceedings are being interpreted by
5 a Certified Spanish Interpreter).

6 THE CLERK: We are on the record in the case of
7 Commonwealth versus Rolando Penate, Indictment 2012-83,
8 Attorneys Velazquez and Ryan.

9 THE COURT: I will the have the jury brought in.

10 (The jury arrives).

11 THE COURT: Good morning, ladies and gentlemen.

12 MR. RYAN: Good morning.

13 THE COURT: I hope all of you got a good night's
14 rest. Now, not including your deliberations which began
15 yesterday, have any of you discussed the case outside of
16 this court room, seen, heard or read anything about the
17 case, done any independent research or taken any
18 independent views to the areas discussed during the
19 trial? Is there anything that needs to be brought to my
20 attention before you begin your deliberations?

21 For the record there are no affirmative responses
22 to any of the questions asked by the court.

23 Ladies and gentlemen, you may resume your
24 deliberations and the exhibits will be brought into you
25 shortly. Thank you very much.

1 (The jury is excused to resume deliberations).

2 (Court adjourns momentarily).

3 THE COURT: I have received two additional notes
4 from the jurors. One I left in my lobby but I can tell
5 you what it is. It is the jury wants to be
6 re-instructed on reasonable doubt and possession with
7 the intent to distribute and distribution. This is the
8 Rolando Penate. They didn't state it in that order.
9 "We would like an explanation on distribution,
10 possession and reasonable doubt," all right, and that
11 was signed by the foreperson and it is "N" for ID. The
12 second note I received reads as follows:

13 "Can we turn the cell phone on?" I will do the
14 easy one first, which is no. And so with respect to the
15 first note, I didn't instruct on possession. I
16 instructed on possession with intent, but possession is
17 included in the instructions, so I'm not clear as to
18 whether they want an instruction on possession, actual
19 and constructive possession, or the entire instruction
20 which takes us back to the crime alleged in the
21 indictment, and maybe I should ask them. But it seems
22 to me I can't pull out just the definition of possession
23 from possession with intent. I will hear from you,
24 Mr. Velazquez.

25 MR. VELAZQUEZ: Your Honor, I agree with the court

1 that it is unclear based on the way the question is
2 posed, and in your position, I would probably ask them
3 as well.

4 THE COURT: Okay.

5 MR. RYAN: I don't see any harm in asking, but my
6 reading of it is that they were asking just about the
7 discrete element of possession which encompasses both
8 actual and constructive.

9 THE COURT: Do you know what I think I will do,
10 because I will tell them I'm not clear with respect to
11 their request, but I will instruct them on possession
12 with intent.

13 MR. RYAN: My view on that is I don't think they
14 were asking about intent, and I think that whole count
15 has both the elements of what a controlled substance is.
16 I don't think they are seeking clarity on that. It
17 seems to me their question is about what possession
18 entails and what distribution entails.

19 THE COURT: Do you agree?

20 MR. VELAZQUEZ: I agree.

21 THE COURT: All right.

22 Okay, so my note to the foreperson is, "Do you need
23 clarification of the definition of possession with
24 intent, or possession," and I just put a response with,
25 "Let me know what it is."

1 Are you satisfied with that note?

2 MR. VELAZQUEZ: Yes, Your Honor.

3 MR. RYAN: I'm satisfied.

4

5 (Exhibits N and O for ID -- Two Notes from the Jury,
6 marked for identification).

7

8 (The court officer brings note to the jury).

9 (Court officer brings note from the jury to the
10 Judge).

11 THE COURT: Okay. The note reads, "I have read
12 over our notes and reasonable doubt is what we need
13 clarification of," okay. That is the response to my
14 note. So my note to the jurors will be marked as "P"
15 for ID and the response, and please feel free to look at
16 them. So are we ready? Did you want to say something,
17 Mr. Velazquez?

18 MR. VELAZQUEZ: No, Your Honor, I do not.

19

20 (Exhibit P and Q for ID -- Notes to the Jury, marked for
21 identification).

22

23 (The jury arrives at 10:30 a.m.).

24 THE COURT: All right, ladies and gentlemen,
25 initially you asked for explanation on distribution,

1 possession and reasonable doubt, and it wasn't clear to
2 me as to whether you wanted the entire instruction
3 re-read to you, but my understanding is now that you
4 just want to be reinstructed on reasonable doubt, is
5 that correct?

6 THE JURY: Yes.

7 THE COURT: All right, and I will do that. The
8 other question I have received from you is, "Can we turn
9 the cell phone on?" No, okay. I'm sorry, but we cannot
10 permit the jurors to have access to cell phones or the
11 internet or any of those types of devices during your
12 deliberations.

13 A JUROR: Can I ask you a question.

14 THE COURT: All right. Why don't you speak to the
15 court officer, okay. Does anybody have a spouse who is
16 with a child or anything like that?

17 A JUROR: We are talking about the cell phone in
18 the case.

19 ANOTHER JUROR: Yes, the evidence, not our personal
20 cell phones.

21 THE COURT: Thank you. I apologize. I thought
22 somebody wanted to turn on their cell phone. May I see
23 counsel at side bar?

24 (Off record discussion with counsel at side bar).

25 THE COURT: Did it ever occur to you that it was

1 that phone?

2 MR. VELAZQUEZ: It didn't.

3 THE COURT: Did it occur to you?

4 MR. RYAN: No.

5 THE COURT: I thought they were talking about
6 personal cell phones. Do you want to be heard?

7 MR. VELAZQUEZ: I think your answer still would be
8 no.

9 THE COURT: All right, because it has never been
10 turned on.

11 (End of off record conference at side bar).

12 THE COURT: So thank you for that explanation as to
13 answering the phone, okay. It wasn't turned on during
14 the course of the trial so it was admitted into evidence
15 as is, so please do not turn the cell phone on, all
16 right.

17 Now, I am going to reinstruct you on the definition
18 of beyond a reasonable doubt.

19

20

21

22

23

24

25

1 RE-INSTRUCTION

2 BY THE COURT

3 And you remember that this is a definition that was
4 developed in the case called Commonwealth versus Webster
5 in 1850, and I am going to read it in its modern syntax.

6 The burden is on the Commonwealth to prove beyond a
7 reasonable doubt that the Defendant is guilty of the
8 charge made against him. What is proof beyond a
9 reasonable doubt? The term is often used and probably
10 pretty well understood, though it is not easily defined.

11 Proof beyond a reasonable doubt does not mean proof
12 beyond all possible doubt for everything in the lives of
13 human beings is open to some possible or imaginary
14 doubt. A charge is proved beyond a reasonable doubt if
15 after you have compared and considered all the evidence,
16 you have in your minds an abiding conviction to a moral
17 certainty that the charge is true. I have told you that
18 every person is presumed to be innocent until he is
19 proved guilty, and that the burden of proof is on the
20 Commonwealth. If you evaluate all the evidence and you
21 still have a reasonable doubt remaining, the Defendant
22 is entitled to the benefit of that doubt and must be
23 acquitted.

24 It is not enough for the Commonwealth to establish
25 a probability, even a strong probability that the

1 Defendant is more likely to be guilty than not guilty.
2 That is not enough. Instead, the evidence must convince
3 you of the Defendant's guilt to a reasonable and moral
4 certainty, a certainty that convinces your understanding
5 and satisfies your reason and judgment as jurors who are
6 sworn to act conscientiously on the evidence. That is
7 what we mean by proof beyond a reasonable doubt.

8 So that concludes my instruction to you. Please
9 remember that you must consider all of my instructions
10 as a whole. The only reason why I re-read that
11 instruction was in response to your request.

12 If I could please see counsel at side bar.

13 (Off record discussion at side bar).

14 THE COURT: Counsel, are you satisfied with my
15 instruction?

16 MR. VELAZQUEZ: Yes.

17 MR. RYAN: Defense is satisfied.

18 THE COURT: All right.

19 {End of off record discussion at side bar}.

20 THE COURT: All right, ladies and gentlemen, you
21 may resume your deliberations.

22 (The jury is excused at 10:37 a.m.)

23 THE COURT: All right. Thank you very much.

24 (Court adjourns momentarily).

25 (Court reconvenes at 12:13 p.m.)

1 THE CLERK: Back on the record of Commonwealth
2 versus Rolando Penate. For the record, the interpreter
3 is present.

4 THE COURT: So the jurors have now rested as far as
5 I understand. That is my recollection. And there were
6 notes sent back and forth throughout during their
7 deliberations yesterday afternoon. And at one point the
8 court did receive the note indicating that they didn't
9 think they would be able to reach an agreement, and so I
10 instructed them to continue on with their deliberations.

11 Mr. Velazquez did ask me to read the Tuoey
12 Rodriguez charge but I felt it was premature, I felt it
13 was premature. It is now quarter after twelve and they
14 have been deliberating since 9:30, and they did ask this
15 morning to be instructed on reasonable doubt, which I
16 did do. And I did not take note of the time but it was
17 maybe elevenish, or maybe even before that, right?

18 MR. VELAZQUEZ: I believe it was 10:15

19 THE COURT: So 10:15? Thank you, 10:15, so that is
20 two hours ago. I am inclined to read the Tuoey
21 Rodriguez instruction at this point. The case took
22 about a day and a half to try. It is not a particularly
23 complicated case. There are interesting issues in the
24 case, but given the length of time that the jury has
25 been deliberating, I can see there where it would be

1 coercive to give a Tuoey Rodriguez instruction.

2 Mr. Velazquez?

3 MR. VELAZQUEZ: Judge, the only thing I can say is
4 at some point I thought they were close because they
5 said they needed ten minutes.

6 THE COURT: That was yesterday at about five after
7 five, and I don't disagree with that with you. I don't
8 have the notes that were sent from the foreperson before
9 me, but you're right. There was a time when they said
10 they were real close, so that is why I hesitate in doing
11 it and why I wanted to speak with you first. I don't
12 think I have ever sua sponte instructed, given a Tuoey
13 instruction sua sponte. I have done it but it was as a
14 result of notes being sent to me from the deliberating
15 jurors. What I could do is the following: I'll order
16 lunch. I will give you an opportunity to be heard in
17 court. I'll just order lunch and see what happens, okay.
18 Now, Mr. Ryan?

19 MR. RYAN: I'm in favor of ordering the lunch. I
20 think if you get another note, of course, I think Tuoey
21 Rodriguez is appropriate, but I understand why the
22 court's inclination would be a sua sponte instruction of
23 Tuoey Rodriguez because there have been a lot notes
24 coming in, and I think they are doing their work.

25 THE COURT: All right. So Mr. -- if you would order

1 lunch for the jurors please, okay. Thank you very much.

2 I will see you later.

3 (Court adjourns at 12:20 p.m.).

4 (Court reconvenes after luncheon recess).

5 THE CLERK: This will be the letter "R" Your
6 Honor, this question.

7

8 (Exhibit R for ID -- Note from the Jury, marked for
9 identification).

10

11 THE COURT: We will wait for the interpreter.

12 (The interpreter arrives).

13 THE COURT: All right, good afternoon, counsel and
14 Mr. Penate. I have received another note from the
15 foreperson, and it has been marked as Exhibit R for
16 identification and you are free to read it.

17 "Your Honor, can the testimony of the buy money on
18 Penate be used or was it stricken out? We are confused
19 on what buy money was used in the testimony, William
20 Cruz or Mr. Penate," and it is signed by the foreperson.
21 Do you want to see it?

22 MR. VELAZQUEZ: No.

23 MR. RYAN:: No.

24 THE COURT: I read it as written.

25 MR. VELAZQUEZ: There is two different testimonies

1 about two different buy monies that I recall, but I
2 think it's ultimately resting on their recall. It is
3 their memory.

4 THE COURT: Exactly.

5 MR. RYAN:: I would agree with Mr. Velasquez. You
6 can't give them much guidance.

7 THE COURT: All right. I'm going to have the jurors
8 brought in.

9 (The jury arrives).

10 THE COURT: Good afternoon, ladies and gentlemen.
11 I have received your note and it reads as follows:

12 "Your Honor, can the testimony of buy money on
13 Penate be used or was it stricken out? We are confused
14 on what buy money was used in testimony, William Cruz or
15 Mr. Panate. Thank you". And it is signed by the
16 foreperson.

17 It is your memory of the testimony that controls.
18 I cannot supplement or supplant any of the evidence that
19 was presented during the course of this trial. You were
20 permitted to take notes and I indicated that you may
21 refer to your notes during the deliberation, but it is
22 your memory of the testimony that was presented during
23 this trial that controls. And so that is my answer with
24 respect to this question. Do you need to see me at side
25 bar, counsel.

1 MR. VELAZQUEZ: Yes.

2 (Off record discussion with counsel at side bar).

3 THE COURT: Yes, Mr. Velazquez.

4 MR. VELAZQUEZ: Your Honor, I don't know how deeply
5 the testimony goes, but I don't think there was anything
6 stricken.

7 THE COURT: Okay.

8 MR. RYAN:: I am satisfied with it, Judge. They
9 weren't allowed to put in any.

10 THE COURT: Exactly.

11 MR. VELAZQUEZ: Yes.

12 MR. RYAN:: I don't think --

13 MR. VELAZQUEZ: You won't say anything with respect
14 to --

15 THE COURT: I'm not saying anything about the
16 evidence that came in or the -- not permitted in. It is
17 their memory of whatever they remember. That is what
18 they have to rely on during their deliberations.

19 THE COURT: All right, ladies and gentlemen, that
20 was my answer to your question, okay.

21 MR. RYAN:: Thank you.

22 THE COURT: You are welcome.

23 (The jury is excused).

24 THE COURT: I just want to put on the record it is
25 now twenty-three minutes after, okay. I'm putting that

1 on the record, so don't be surprised in the event the
2 court comes back on the bench and talks to you in about
3 fifteen or twenty minutes, okay? MR. RYAN:?

4 MR. RYAN:: Thank you.

5 THE COURT: You are more than welcome, sir. Thank
6 you.

7 (End of off record discussion at side bar).

8 (Court adjourns momentarily).

9 (Court reconvenes at 2:30 p.m.-- the jury has a
10 verdict).

11 THE CLERK: Ladies and gentlemen of the jury, please
12 remain standing, the Defendant please remain standing.
13 Madam Forelady, has the jury agreed upon its verdicts.

14 COURT OFFICER: You have to put them in the
15 envelope.

16 (The court officer hands them to the clerk).

17 THE CLERK: Thank you.

18 (The clerk hands verdicts to the Judge. The Judge
19 looks at the verdicts).

20 THE COURT: Mr. Clerk, you may record the verdicts.

21 THE CLERK: Madam Foreperson, ladies and gentlemen
22 of the jury, hearken to your verdicts as the court will
23 record them.

24

25

1 THE VERDICTS

2 THE CLERK: To Indictment 12-83, Count one,
3 Commonwealth versus Rolando Penate charging unlawful
4 possession of a controlled substance with intent to
5 distribute Class B Cocaine, date, November 15th of the
6 year 2011, you the jury find the Defendant not guilty,
7 so say you, Madam Forelady:

8 THE FORELADY: Yes.

9 THE CLERK: So say all of you ladies and gentlemen
10 of the jury?.

11 THE JURY: Yes.

12 THE CLERK: And was this verdict unanimous?

13 THE JURY: Yes. .

14 THE CLERK: Indictment 12-83, Count Three,
15 Commonwealth versus Rolando Penate, charging unlawful
16 possession of a controlled substance with intent to
17 distribute Class A Heroin, date, November 15th of the
18 year 2011, you the jury find the Defendant not guilty.
19 So say you, Madam Forelady?

20 THE FORELADY: Yes.

21 THE CLERK: So say all of you ladies and gentlemen
22 of the jury?

23 THE JURY: Yes.

24 THE CLERK: Is this verdict unanimous?

25 THE JURY: Yes.

1 THE CLERK: Indictment 12-83, Count Five,
2 Commonwealth versus Rolando Penate, charging unlawful
3 distribution of a controlled substance, Class A Heroin,
4 date, November 15th of the year 2011, you the jury find
5 the Defendant guilty. So say you Madam Forelady?

6 THE FORELADY: Yes.

7 THE CLERK: So say all of you ladies and gentlemen
8 of the jury?

9 THE JURY: Yes.

10 THE CLERK: Is this verdict unanimous?

11 THE JURY: Yes.

12 THE CLERK: Indictment 2012-83, Count Seven,
13 Commonwealth versus Rolando Penate, charging unlawful
14 distribution of a controlled substance, Class A Heroin,
15 date, November 9th of the year 2011, you the jury find
16 the Defendant not guilty. So say you, Madam Forelady?

17 THE FORELADY: Yes.

18 THE CLERK: And so say all of you ladies and
19 gentlemen of the jury?

20 THE JURY: Yes.

21 THE CLERK: Is this verdict unanimous?

22 THE JURY: Yes.

23 THE CLERK: Indictment 2012-83, Count Nine,
24 Commonwealth versus Rolando Panate, charging unlawful
25 distribution of a controlled substance, Class A Heroin,

1 date, October 21st of the year 2011, you the jury find
2 the Defendant not guilty. So say you Madam Forelady?

3 THE FORELADY: Yes.

4 THE CLERK: And so say all of you ladies and
5 gentlemen of the jury?

6 THE JURY: Yes.

7 THE CLERK: And is this verdict unanimous?

8 THE JURY: Yes.

9 THE CLERK: You may be seated.

10 THE COURT: All right, before we proceed, I need to
11 see counsel at side bar.

12 (Off record conference with counsel at side bar).

13 THE COURT: I just want to be assured that your
14 client is not going to proceed on the second offender
15 portion?

16 MR. RYAN:: He is not, Your Honor, and I would
17 request the court if you would entertain a motion with
18 respect to poling the jury.

19 THE COURT: Your request, for the record, for the
20 court to pole the jury, I will not pole these jurors.
21 As Mr. Ginley was reading each and every count, I
22 watched, and I watched every one of them, and there is
23 no need to pole the jury.

24 MR. RYAN:: Okay.

25 THE COURT: So I can dismiss this jury, okay.

1 Thank you.

2 THE COURT: Ladies and gentlemen, I just want to
3 thank you so much for your service in this case. It is
4 clear to me that you really put every effort into
5 discussing and deliberating the issues that came out
6 during the course of this trial and I honestly
7 appreciate that, and also to the alternates. So you are
8 dismissed from service.

9 I know this must sound like a lot, but I'm going to
10 ask that you wait for me about three minutes in your
11 deliberation room so I can thank you privately. I do
12 have good news for you, and that is that you won't be
13 called for jury service for three years, so again thank
14 so very much for your service and I will see you in two
15 or three minutes.

16 (End of off record discussion at side bar).

17 THE COURT: Mr. Velazquez?

18 MR. VELAZQUEZ: Your Honor, it is Commonwealth's
19 request that you revoke the Defendant's bail at this
20 point and schedule either a trial on the subsequent
21 portion of the indictment that was a guilty verdict.

22 THE COURT: Yes.

23 MR. VELAZQUEZ: Unless counsel is ready to proceed
24 otherwise.

25 MR. RYAN:: No objection for the last case on my

1 client's bail. If I could have a couple of minutes, I
2 think we could talk about the second offender, Your
3 Honor, the subsequent portion of the indictment.

4 THE COURT: Do you want to do that today or Monday?

5 MR. RYAN:: I would prefer to come back on Monday
6 for sentencing.

7 THE COURT: All right, that is fine. So I will
8 revoke the Defendant's bail, and this matter is
9 continued to Monday, December 16th at 9:30. I have
10 another sentencing before yours but I will take care of
11 it then, okay. Thank you very much.

12

13 (Court adjourns for the day).

14

15

16

17

18

19

20

21

22

23

24

25

0	acquitted [1] - 9:23 act [1] - 10:6 actual [2] - 4:18, 5:8 additional [1] - 4:3 adjourns [5] - 4:2, 10:24, 13:3, 16:8, 21:13 admitted [1] - 8:14 afternoon [3] - 11:7, 13:13, 14:10 ago [1] - 11:20 agree [4] - 4:25, 5:19, 5:20, 14:5 agreed [1] - 16:13 agreement [1] - 11:9 alleged [1] - 4:20 allowed [1] - 15:9 alternates [1] - 20:7 ANOTHER [1] - 7:19 answer [3] - 8:7, 14:23, 15:20 answering [1] - 8:13 apologize [1] - 7:21 APPEARANCES [1] - 1:13 appreciate [1] - 20:7 appropriate [1] - 12:21 areas [1] - 3:18 arrives [1] - 6:23 arrives) [3] - 3:10, 13:12, 14:9 Arrives.. [1] - 2:3 Assistant [1] - 1:16 assured [1] - 19:13 attention [1] - 3:20 Attorney [1] - 1:16 Attorney's [1] - 1:15 Attorneys [1] - 3:8	brought [4] - 3:9, 3:19, 3:24, 14:8 burden [2] - 9:6, 9:19 buy [5] - 13:17, 13:19, 14:1, 14:12, 14:14 BY [1] - 9:2	Commonwealth's [1] - 20:18 compared [1] - 9:15 complicated [1] - 11:23 concludes [1] - 10:8 conference [2] - 8:11, 19:12 confused [2] - 13:18, 14:13 conscientiously [1] - 10:6 consider [1] - 10:9 considered [1] - 9:15 constructive [2] - 4:19, 5:8 continue [1] - 11:10 continued [1] - 21:9 controlled [6] - 5:15, 17:4, 17:16, 18:3, 18:14, 18:25 controls [2] - 14:17, 14:23 conviction [1] - 9:16 convince [1] - 10:2 convinces [1] - 10:4 correct [1] - 7:5 Counsel [1] - 1:18 counsel [10] - 7:23, 7:24, 10:12, 10:14, 13:13, 14:25, 15:2, 19:11, 19:12, 20:23 Count [5] - 17:2, 17:14, 18:1, 18:12, 18:23 count [2] - 5:14, 19:21 County [1] - 1:15 couple [1] - 21:1 course [4] - 8:14, 12:20, 14:19, 20:6 Court [11] - 1:3, 1:24, 3:1, 4:2, 6:9, 10:24, 10:25, 13:3, 13:4, 16:8, 16:9 court [13] - 3:16, 3:22, 4:25, 6:8, 7:15, 11:8, 12:17, 16:2, 16:16, 16:22, 19:17, 19:20, 21:13 COURT [53] - 1:4, 3:9, 3:11, 3:13, 4:3, 5:4, 5:9, 5:19, 5:21, 6:11, 6:24, 7:7, 7:14, 7:21, 7:25, 8:3, 8:5, 8:9, 8:12, 9:2, 10:14, 10:18, 10:20, 10:23, 11:4, 11:19, 12:6, 12:25, 13:11, 13:13, 13:24, 14:4, 14:7, 14:10, 15:3, 15:7, 15:10, 15:15, 15:19, 15:22, 15:24, 16:5, 16:14, 16:20, 19:10, 19:13, 19:19, 19:25, 20:2, 20:17, 20:22, 21:4, 21:7 court's [1] - 12:22 Courtroom [1] - 1:22 crime [1] - 4:20 Cruz [2] - 13:20, 14:14
1	1 [1] - 1:1 10:15 [3] - 11:18, 11:19 10:30 [1] - 6:23 10:37 [1] - 10:22 12-83 [3] - 17:2, 17:14, 18:1 12:13 [1] - 10:25 12:20 [1] - 13:3 13 [2] - 1:23, 3:1 15th [3] - 17:5, 17:17, 18:4 16th [1] - 21:9 1850 [1] - 9:5	C cannot [2] - 7:9, 14:18 care [1] - 21:10 case [10] - 3:6, 3:15, 3:17, 7:18, 9:4, 11:21, 11:23, 11:24, 20:3, 20:25 cell [8] - 4:13, 7:9, 7:10, 7:17, 7:20, 7:22, 8:6, 8:15 certainty [3] - 9:17, 10:4 Certified [1] - 3:5 charge [4] - 9:8, 9:14, 9:17, 11:12 Charge.. [1] - 2:6 charging [5] - 17:3, 17:15, 18:2, 18:13, 18:24 child [1] - 7:16 clarification [2] - 5:23, 6:13 clarity [1] - 5:16 Class [5] - 17:5, 17:17, 18:3, 18:14, 18:25 clear [4] - 4:17, 5:10, 7:1, 20:4 CLERK [22] - 3:6, 11:1, 13:5, 16:11, 16:17, 16:21, 17:2, 17:9, 17:12, 17:14, 17:21, 17:24, 18:1, 18:7, 18:10, 18:12, 18:18, 18:21, 18:23, 19:4, 19:7, 19:9 clerk [2] - 16:18, 16:20 clerk) [1] - 16:16 client [1] - 19:14 client's [1] - 21:1 close [2] - 12:4, 12:10 Cocaine [1] - 17:5 coercive [1] - 12:1 coming [1] - 12:24 Committee [1] - 1:18 COMMONWEALTH [2] - 1:3, 1:6 Commonwealth [12] - 1:14, 3:7, 9:4, 9:6, 9:20, 9:24, 11:1, 17:3, 17:15, 18:2, 18:13, 18:24	D date [5] - 17:5, 17:17, 18:4, 18:15, 19:1 day) [1] - 21:13 December [3] - 1:23, 3:1, 21:9 deeply [1] - 15:4 Defendant [11] - 1:9, 1:17, 9:7, 9:21, 10:1, 16:12, 17:6, 17:18, 18:5, 18:16, 19:2 Defendant's [3] - 10:3, 20:19, 21:8 defense [1] - 10:17 defined [1] - 9:10 definition [4] - 4:22, 5:23, 8:17, 9:3 deliberate.. [1] - 2:4 deliberating [4] - 11:14, 11:25, 12:14, 20:5 deliberation [2] - 14:21, 20:11 deliberations [8] - 3:14, 3:20, 3:24, 7:12, 10:21, 11:7, 11:10, 15:18 deliberations) [1] - 4:1 Department [1] - 1:3 developed [1] - 9:4 devices [1] - 7:11 different [2] - 13:25, 14:1 disagree [1] - 12:7 discrete [1] - 5:7 discussed [2] - 3:15, 3:18 discussing [1] - 20:5 discussion [6] - 7:24, 10:13, 10:19, 15:2, 16:7, 20:16 dismiss [1] - 19:25 Dismissed [1] - 2:4 dismissed [1] - 20:8 distribute [3] - 4:7, 17:5, 17:17 distribution [7] - 4:7,
2	2011 [5] - 17:6, 17:18, 18:4, 18:15, 19:1 2012-83 [3] - 3:7, 18:12, 18:23 2013 [2] - 1:23, 3:1 21st [1] - 19:1 2:30 [1] - 16:9		
3	3 [2] - 2:3, 2:4		
5	50 [1] - 1:15		
6	6 [1] - 1:22		
8	8 [1] - 2:6		
9	9:15 [1] - 3:1 9:30 [2] - 11:14, 21:9 9th [1] - 18:15		
A	a.m [2] - 3:1, 10:22 a.m.) [1] - 6:23 abiding [1] - 9:16 able [1] - 11:9 access [1] - 7:10		

4:9, 5:18, 6:25, 18:3,
18:14, 18:25

District [2] - 1:15, 1:16
Docket [1] - 1:7
done [2] - 3:17, 12:13
doubt [16] - 4:6, 4:10,
6:12, 7:1, 7:4, 8:18,
9:7, 9:9, 9:11, 9:12,
9:14, 9:21, 9:22,
10:7, 11:15
during [9] - 3:18, 7:11,
8:13, 11:6, 14:19,
14:21, 14:22, 15:18,
20:6

E

easily [1] - 9:10
easy [1] - 4:14
Eduardo [1] - 1:16
effort [1] - 20:4
either [1] - 20:20
element [1] - 5:7
elements [1] - 5:15
elevenish [1] - 11:17
encompasses [1] -
5:7
End [1] - 16:7
end [3] - 8:11, 10:19,
20:16
entails [2] - 5:18
entertain [1] - 19:17
entire [2] - 4:19, 7:2
entitled [1] - 9:22
envelope [1] - 16:15
Esquire [2] - 1:18,
1:19
establish [1] - 9:24
evaluate [1] - 9:20
event [1] - 16:1
evidence [8] - 7:19,
8:14, 9:15, 9:20,
10:2, 10:6, 14:18,
15:16
exactly [1] - 14:4
Exactly [1] - 15:10
excused [2] - 4:1,
10:22
excused [1] - 15:23
Exhibit [6] - 2:12,
2:13, 2:14, 2:15,
6:20, 13:15
exhibit [1] - 13:8
Exhibits [2] - 1:2, 6:5
exhibits [1] - 3:24
EXHIBITS [1] - 2:11
explanation [3] - 4:9,
6:25, 8:12

F

far [1] - 11:4
favor [1] - 12:19
felt [2] - 11:12
fifteen [1] - 16:3
fine [1] - 21:7
first [3] - 4:14, 4:15,
12:11
Five [1] - 18:1
five [2] - 12:6, 12:7
Flaherty [1] - 1:24
following [2] - 3:4,
12:15
follows [2] - 4:12,
14:11
FORELADY [5] - 17:8,
17:20, 18:6, 18:17,
19:3
Forelady [6] - 16:13,
17:7, 17:19, 18:5,
18:16, 19:2
foreperson [6] - 4:11,
5:22, 12:8, 13:15,
13:20, 14:16
Foreperson [1] -
16:21
forth [1] - 11:6
free [2] - 6:15, 13:16

G

gentlemen [14] - 3:11,
3:23, 6:24, 10:20,
14:10, 15:19, 16:11,
16:21, 17:9, 17:21,
18:7, 18:19, 19:5,
20:2
Ginley [1] - 19:21
given [2] - 11:24,
12:12
guidance [1] - 14:6
guilt [1] - 10:3
guilty [10] - 9:7, 9:19,
10:1, 17:6, 17:18,
18:5, 18:16, 19:2,
20:21

H

half [1] - 11:22
Hampden [2] - 1:3,
1:15
hands [2] - 16:16,
16:18
harm [1] - 5:5
hear [1] - 4:23
heard [3] - 3:16, 8:6,
12:16
hearken [1] - 16:22

HELD [1] - 1:11
Heroin [4] - 17:17,
18:3, 18:14, 18:25
hesitate [1] - 12:10
honestly [1] - 20:6
Honor [10] - 4:25, 6:2,
6:18, 13:6, 13:17,
14:12, 15:4, 19:16,
20:18, 21:3
Honorable [1] - 3:2
HONORABLE [1] -
1:12
hope [1] - 3:13
hours [1] - 11:20
human [1] - 9:13

I

ID [9] - 2:12, 2:13,
2:14, 2:15, 4:11, 6:5,
6:15, 6:20, 13:8
identification [1] -
13:16
identification [3] -
6:6, 6:21, 13:9
imaginary [1] - 9:13
inclination [1] - 12:22
inclined [1] - 11:20
included [1] - 4:17
including [1] - 3:14
independent [2] -
3:17, 3:18
indicated [1] - 14:20
indicating [1] - 11:8
Indictment [4] - 3:7,
17:2, 17:14, 18:23
indictment [5] - 4:21,
18:1, 18:12, 20:21,
21:3
innocent [1] - 9:18
instead [1] - 10:2
instruct [2] - 4:15,
5:11
instructed [5] - 4:6,
4:16, 11:10, 11:15,
12:12
instruction [11] - 2:6,
4:18, 4:19, 7:2, 10:8,
10:11, 10:15, 11:21,
12:1, 12:13, 12:22
INSTRUCTION [1] -
9:1
instructions [2] -
4:17, 10:9
intent [8] - 4:7, 4:16,
4:23, 5:12, 5:14,
5:24, 17:4, 17:16
interesting [1] - 11:23
internet [1] - 7:11
interpreted [1] - 3:4

interpreter [3] - 11:2,
13:11, 13:12
Interpreter [1] - 3:5
issues [2] - 11:23,
20:5

J

Judge [4] - 12:3, 15:8,
16:18
Judge [1] - 6:10
judgment [1] - 10:5
JUROR [3] - 7:13,
7:17, 7:19
jurors [9] - 4:4, 6:14,
7:10, 10:5, 11:4,
12:15, 13:1, 14:7,
19:20
JURY [12] - 1:11, 7:6,
17:11, 17:13, 17:23,
17:25, 18:9, 18:11,
18:20, 18:22, 19:6,
19:8
jury [28] - 3:9, 3:10,
4:1, 4:5, 6:9, 6:23,
10:22, 11:24, 14:9,
15:23, 16:9, 16:11,
16:13, 16:22, 17:6,
17:18, 17:22, 18:4,
18:8, 18:15, 18:19,
19:1, 19:5, 19:18,
19:20, 19:23, 19:25,
20:13
Jury [6] - 2:3, 2:4,
2:13, 6:5, 6:20, 13:8
jury [1] - 6:8
Jury.. [5] - 2:5, 2:7,
2:12, 2:14, 2:15
jury? [1] - 17:10

L

ladies [14] - 3:11,
3:23, 6:24, 10:20,
14:10, 15:19, 16:11,
16:21, 17:9, 17:21,
18:7, 18:18, 19:4,
20:2
last [1] - 20:25
left [1] - 4:4
length [1] - 11:24
letter [1] - 13:5
likely [1] - 10:1
lives [1] - 9:12
lobby [1] - 4:4
look [1] - 6:15
looks [1] - 16:19
Luke [2] - 1:18, 1:19
lunch [4] - 12:16,
12:17, 12:19, 13:1

luncheon [1] - 13:4

M

Madam [6] - 16:21,
17:7, 17:19, 18:5,
18:16, 19:2
madam [1] - 16:13
marked [5] - 6:6, 6:14,
6:20, 13:8, 13:15
MASSACHUSETTS
[2] - 1:3, 1:6
Massachusetts [3] -
1:16, 1:19, 1:22
matter [1] - 21:8
mean [2] - 9:11, 10:7
memory [4] - 14:3,
14:17, 14:22, 15:17
minds [1] - 9:16
minutes [6] - 12:5,
15:25, 16:3, 20:10,
20:15, 21:1
modern [1] - 9:5
momentarily [3] - 4:2,
10:24, 16:8
Monday [3] - 21:4,
21:5, 21:9
money [4] - 13:17,
13:19, 14:12, 14:14
monies [1] - 14:1
moral [2] - 9:16, 10:3
morning [3] - 3:11,
3:12, 11:15
motion [1] - 19:17
MR [35] - 3:12, 4:25,
5:5, 5:13, 5:20, 6:2,
6:3, 6:18, 8:2, 8:4,
8:7, 10:16, 10:17,
11:18, 12:3, 12:19,
13:22, 13:23, 13:25,
14:5, 15:1, 15:4,
15:8, 15:11, 15:12,
15:13, 15:21, 16:3,
16:4, 19:16, 19:24,
20:18, 20:23, 20:25,
21:5
must [4] - 9:22, 10:2,
10:9, 20:9

N

need [5] - 5:22, 6:12,
14:24, 19:10, 19:23
needed [1] - 12:5
needs [1] - 3:19
never [1] - 8:9
news [1] - 20:12
night's [1] - 3:13
Nine [1] - 18:23
No.2012-83 [1] - 1:7

Northampton [1] - 1:19
note [14] - 4:12, 4:15, 5:22, 6:1, 6:8, 6:9, 6:11, 6:14, 11:8, 11:16, 12:20, 13:14, 14:11
Note [7] - 2:5, 2:7, 2:12, 2:13, 2:14, 2:15, 13:8
Notes [2] - 6:5, 6:20
notes [8] - 4:3, 6:12, 11:6, 12:8, 12:14, 12:23, 14:20, 14:21
November [4] - 17:5, 17:17, 18:4, 18:15

O

objection [1] - 20:25
occur [2] - 7:25, 8:3
October [1] - 19:1
OF [3] - 1:3, 1:4, 1:6
offender [2] - 19:14, 21:2
Office [1] - 1:15
officer [4] - 6:8, 6:9, 7:15, 16:16
OFFICER [1] - 16:14
Official [1] - 1:24
often [1] - 9:9
one [5] - 4:4, 4:14, 11:7, 17:2, 19:22
open [1] - 9:13
opportunity [1] - 12:16
order [4] - 4:8, 12:15, 12:17, 12:25
ordering [1] - 12:19
otherwise [1] - 20:24
outside [1] - 3:15

P

p.m [2] - 10:25, 16:9
p.m.) [1] - 13:3
PAGE [2] - 1:12, 2:2
Page [1] - 3:2
Pages [1] - 1:1
Panate [1] - 18:24
panate [1] - 14:15
particularly [1] - 11:22
Patricia [1] - 1:24
penate [2] - 13:14, 13:20
PENATE [1] - 1:9
Penate [10] - 1:17, 3:7, 4:8, 11:2, 13:18, 14:13, 17:3, 17:15, 18:2, 18:13

permit [1] - 7:10
permitted [2] - 14:20, 15:16
person [1] - 9:18
personal [2] - 7:19, 8:6
phone [7] - 4:13, 7:9, 7:17, 7:22, 8:1, 8:13, 8:15
phones [3] - 7:10, 7:20, 8:6
point [4] - 11:7, 11:21, 12:4, 20:20
pole [3] - 19:20, 19:23
poling [1] - 19:18
portion [3] - 19:15, 20:21, 21:3
posed [1] - 5:2
position [1] - 5:2
possession [17] - 4:6, 4:10, 4:15, 4:16, 4:18, 4:19, 4:22, 4:23, 5:7, 5:11, 5:17, 5:23, 5:24, 7:1, 17:4, 17:16
possible [2] - 9:12, 9:13
prefer [1] - 21:5
premature [2] - 11:12, 11:13
present [1] - 11:3
presented [2] - 14:19, 14:22
presumed [1] - 9:18
pretty [1] - 9:10
privately [1] - 20:11
probability [2] - 9:25
proceed [3] - 19:10, 19:14, 20:23
proceedings [1] - 3:4
proof [5] - 9:8, 9:11, 9:19, 10:7
prove [1] - 9:6
proved [2] - 9:14, 9:19
Public [1] - 1:18
pull [1] - 4:22
put [5] - 5:24, 15:9, 15:24, 16:14, 20:4
putting [1] - 15:25

Q

quarter [1] - 11:13
questions [1] - 3:22

R

Re [1] - 2:6
re [3] - 4:6, 7:3, 10:10
RE [1] - 9:1

re-instructed [1] - 4:6
Re-instruction [1] - 2:6
RE-INSTRUCTION [1] - 9:1
re-read [2] - 7:3, 10:10
reach [1] - 11:9
read [9] - 3:16, 6:11, 7:3, 9:5, 10:10, 11:11, 11:20, 13:16, 13:24
reading [2] - 5:6, 19:21
reads [3] - 4:12, 6:11, 14:11
ready [2] - 6:16, 20:23
real [1] - 12:10
really [1] - 20:4
reason [2] - 10:5, 10:10
reasonable [14] - 4:6, 4:10, 6:12, 7:1, 7:4, 8:18, 9:7, 9:9, 9:11, 9:14, 9:21, 10:3, 10:7, 11:15
receive [1] - 11:8
Received [2] - 2:5, 2:7
received [5] - 4:3, 4:12, 7:8, 13:14, 14:11
recess [1] - 13:4
recollection [1] - 11:5
reconvenes [3] - 10:25, 13:4, 16:9
record [17] - 3:6, 3:21, 7:24, 8:11, 10:13, 10:19, 11:1, 11:2, 15:2, 15:24, 16:1, 16:7, 16:20, 16:23, 19:12, 19:19, 20:16
refer [1] - 14:21
reinstruct [1] - 8:17
re-instructed [1] - 7:4
rely [1] - 15:18
remain [2] - 16:12
remaining [1] - 9:21
remember [3] - 9:3, 10:9, 15:17
Reporter [1] - 1:24
request [5] - 5:11, 10:11, 19:17, 19:19, 20:19
research [1] - 3:17
respect [5] - 4:14, 5:10, 14:24, 15:13, 19:18
response [4] - 5:24, 6:13, 6:15, 10:11
responses [1] - 3:21
rest [1] - 3:14

rested [1] - 11:4
resting [1] - 14:2
result [1] - 12:14
resume [3] - 3:23, 4:1, 10:21
revoke [2] - 20:19, 21:8
Rodriguez [5] - 11:12, 11:21, 12:1, 12:21, 12:23
ROLANDO [1] - 1:9
Rolando [8] - 3:7, 4:8, 11:2, 17:3, 17:15, 18:2, 18:13, 18:24
room [2] - 3:16, 20:11
Ryan [4] - 1:18, 1:19, 3:8, 12:18
RYAN [18] - 3:12, 5:5, 5:13, 6:3, 8:4, 10:17, 12:19, 13:23, 14:5, 15:8, 15:12, 15:21, 16:3, 16:4, 19:16, 19:24, 20:25, 21:5

S

satisfied [5] - 6:1, 6:3, 10:14, 10:17, 15:8
satisfies [1] - 10:5
schedule [1] - 20:20
seated [1] - 19:9
second [3] - 4:12, 19:14, 21:2
see [10] - 5:5, 7:22, 10:12, 11:25, 12:17, 13:2, 13:21, 14:24, 19:11, 20:14
seeking [1] - 5:16
sent [3] - 11:6, 12:8, 12:14
sentencing [2] - 21:6, 21:10
service [4] - 20:3, 20:8, 20:13, 20:14
Services [1] - 1:18
session [1] - 3:1
Seven [1] - 18:12
shortly [1] - 3:25
side [12] - 7:23, 7:24, 8:11, 10:12, 10:13, 10:19, 14:24, 15:2, 16:7, 19:11, 19:12, 20:16
signed [3] - 4:11, 13:20, 14:15
sorry [1] - 7:9
sound [1] - 20:9
Spanish [1] - 3:5
sponte [3] - 12:12, 12:13, 12:22

spouse [1] - 7:15
Springfield [2] - 1:16, 1:22
ss [1] - 1:3
standing [2] - 16:12
state [1] - 4:8
State [1] - 1:15
still [2] - 8:7, 9:21
Street [1] - 1:15
stricken [3] - 13:18, 14:13, 15:6
strong [1] - 9:25
sua [3] - 12:12, 12:13, 12:22
subsequent [2] - 20:20, 21:3
substance [6] - 5:15, 17:4, 17:16, 18:3, 18:14, 18:25
Superior [1] - 1:3
supplant [1] - 14:18
supplement [1] - 14:18
surprised [1] - 16:1
sworn [1] - 10:6
syntax [1] - 9:5

T

talks [1] - 16:2
ten [1] - 12:5
term [1] - 9:9
testimonies [1] - 13:25
testimony [7] - 13:17, 13:19, 14:12, 14:14, 14:17, 14:22, 15:5
THE [92] - 1:4, 1:12, 3:6, 3:9, 3:11, 3:13, 4:3, 5:4, 5:9, 5:19, 5:21, 6:11, 6:24, 7:6, 7:7, 7:14, 7:21, 7:25, 8:3, 8:5, 8:9, 8:12, 9:2, 10:14, 10:18, 10:20, 10:23, 11:1, 11:4, 11:19, 12:6, 12:25, 13:5, 13:11, 13:13, 13:24, 14:4, 14:7, 14:10, 15:3, 15:7, 15:10, 15:15, 15:19, 15:22, 15:24, 16:5, 16:11, 16:17, 16:20, 16:21, 17:1, 17:2, 17:8, 17:9, 17:11, 17:12, 17:13, 17:14, 17:20, 17:21, 17:23, 17:24, 17:25, 18:1, 18:6, 18:7, 18:9, 18:10, 18:11, 18:12, 18:17, 18:18,

18:20, 18:21, 18:22,
18:23, 19:3, 19:4,
19:6, 19:7, 19:8,
19:9, 19:10, 19:13,
19:19, 19:25, 20:2,
20:17, 20:22, 21:4,
21:7
three [4] - 15:25,
20:10, 20:13, 20:15
Three [1] - 17:14
throughout [1] - 11:6
Tina [1] - 3:2
TINA [1] - 1:12
today [1] - 21:4
took [1] - 11:21
TRIAL [2] - 1:4, 1:11
trial [6] - 3:19, 8:14,
14:19, 14:23, 20:6,
20:20
true [1] - 9:17
try [1] - 11:22
Tuoey [6] - 11:11,
11:20, 12:1, 12:12,
12:20, 12:23
turn [4] - 4:13, 7:8,
7:22, 8:15
turned [2] - 8:10, 8:13
twelve [1] - 11:13
twenty [2] - 15:25,
16:3
twenty-three [1] -
15:25
two [5] - 4:3, 11:20,
13:25, 14:1, 20:14
Two [1] - 6:5
types [1] - 7:11

U

ultimately [1] - 14:2
unanimous [5] -
17:12, 17:24, 18:10,
18:21, 19:7
unclear [1] - 5:1
understood [1] - 9:10
unlawful [5] - 17:3,
17:15, 18:2, 18:13,
18:24
unless [1] - 20:23

V

velasquez [1] - 14:5
VELAZQUEZ [17] -
4:25, 5:20, 6:2, 6:18,
8:2, 8:7, 10:16,
11:18, 12:3, 13:22,
13:25, 15:1, 15:4,
15:11, 15:13, 20:18,
20:23

Velazquez [8] - 1:16,
3:8, 4:24, 6:17,
11:11, 12:2, 15:3,
20:17
verdict [6] - 17:12,
17:24, 18:10, 18:21,
19:7, 20:21
verdict [1] - 16:10
VERDICTS [1] - 17:1
verdicts [4] - 16:13,
16:18, 16:20, 16:22
verdicts [1] - 16:19
Verdicts.. [1] - 2:8
versus [8] - 3:7, 9:4,
11:2, 17:3, 17:15,
18:2, 18:13, 18:24
view [1] - 5:13
views [1] - 3:18
Volume [1] - 1:1

W

wait [2] - 13:11, 20:10
wants [1] - 4:5
watched [2] - 19:22
Webster [2] - 2:6, 9:4
welcome [2] - 15:22,
16:5
whole [2] - 5:14, 10:10
William [2] - 13:19,
14:14
written [1] - 13:24

Y

year [5] - 17:6, 17:18,
18:4, 18:15, 19:1
years [1] - 20:13
yesterday [3] - 3:15,
11:7, 12:6
you" [1] - 14:15